IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.A. No. 280 of 2005
Date of decision : 17.5.2007

Commissioner of Income Tax,
Hisar

....Petitioner through
Mr.Yogesh Putney,
Advocate

Versus

Hisar Sirsa Kshetriya Gramin Bank Ltd.,Hisar

...Respondent through
Mrs.Tarun Jain,
Advocate

CORAM : HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR.JUSTICE MAHESH GROVER

....

1. Whether Reporters of Local Newspapers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

...

Vijender Jain, Chief Justice (Oral)

This order will dispose of ITA Nos.280 of 2005 and 115 of 2007 as both the cases contain similar question of law and facts.

The following questions of law has been raised by the revenue :

"Whether on the facts and in the circumstances of the case the ITAT was right in law in directing the Assessing Officer to assess the interest income of Rs.1,54,73,000/- as income from banking business and

allow exemption u/s 80P(2)(a)(i)?"

The ITAT while dismissing the appeal relied upon the judgment of a Division Bench of this Court in **Commissioner of Income-Tax v. Nawanshahar Central Co-oprative Bank Ltd. (2003)263 ITR 320(P&H).** The revenue had taken the judgment in **Nawanshahar Central Co-oprative Bank Ltd.** case to Supreme Court in SLP which was dismissed and the following order was passed :

"Delay condoned.

Leave granted.

This court has consistently held that investments made by a banking concern are part of the business of banking. The income arising from such investments would, therefore, be attributable to the business of bank falling under the head "Profits and gains of business" and thus deductible under section 80P(2)(a)(i) of the Income-tax Act, 1961. This has been so held in Bihar State Co-operative Bank Ltd. v. CIT (1960)39 ITR 114 (SC), CIT v. Karnataka State Co-operative Apex Bank (2001)Supp.(2) SCR 35; (2001) 251 ITR 194 (SC) and CIT v. Ramanathapuram Distrit Co-operative Central Bank ltd. (2002) 255 ITR 423 (SC).

The principle in these cases would also cover a situation where a co-operative bank carrying on the business of banking is statutorily required to place a part of its funds in approved securities. The appeals are

accordingly dismissed without costs."

In view of the decision of the Hon'ble Supreme Court in **Nawanshahar's case (supra)** , there is no merit in this appeal and the same is hereby dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

17.5.2007

(MAHESH GROVER)
JUDGE

dss